

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR  
WASHINGTON, D.C.

In the Matter of )

CALIFORNIA POLYTECHNIC STATE )  
UNIVERSITY )

Case No. 82-CTA-31


REMAND ORDER

On October 28, 1985, United States Department of Labor Administrative Law Judge (ALJ) Alfred Lindeman issued a decision dismissing this proceeding. The **ALJ's** decision was based on the interpretation of Section 106(b) of the Comprehensive Employment and Training Act (CETA), 29 U.S.C. § 816(b) (Supp. V 1981), by the United States Court of Appeals for the Ninth Circuit in City of Edmonds v. United States Department of Labor, 749 F.2d 1419 (1984). That decision held that the failure of a Grant Officer to issue a final determination within 120 days from receipt of a complaint or a final audit report was a jurisdictional bar which prevented the Secretary from pursuing a case. The Department appealed the issue of that interpretation to the Supreme Court which, in a unanimous opinion, rejected the Ninth Circuit's interpretation and held that the Secretary does not lose the power to recover misused CETA funds after the expiration of the 120-day period specified in § 106(b). Brock v. Pierce County, 54 U.S.L.W. 4476 (U.S. May 19, 1986), reversing Pierce County v. United States, 759 F.2d 1398 (9th Cir. 1985).

The ALJ's decision in this case was stayed by my Order of December 11, 1985, pending the decision in Pierce County. Upon consideration of the Court's decision in Pierce County, the stay IS LIFTED and the October 28, 1985, decision and order of the ALJ IS VACATED.

It appears that this case has been heard before the ALJ but that no decision on the merits has been prepared. Accordingly, this case IS REMANDED to ALJ Lindeman for preparation and issuance of a decision on the merits.

SO ORDERED.

  
Secretary of Labor

Dated: JUN 30 1986  
Washington, D.C.

CERTIFICATE OF SERVICE

Case Name: California Polytechnic State University

Case No. : 82-CTA-31

Document : Remand Order

This is to certify that a copy of the above-referenced document was sent to the following persons on June 30, 1986.

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